

Part 5. General Provisions.

§ 143-460. Definitions.

As used in this Article, unless the context otherwise requires:

- (1) The term "active ingredient" means
 - a. In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;
 - b. In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;
 - c. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;
 - d. In the case of a desiccant, an ingredient which will artificially accelerate the drying of a plant tissue.
- (2) The term "adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.
- (2a) "Antimicrobial pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any microorganism pest.
- (3) Reserved.
- (4) "Board" means the North Carolina Pesticide Board.
- (5) "Commissioner" means the North Carolina Commissioner of Agriculture.
- (6) Repealed by Session Laws 2017-57, s. 12.1(b), effective July 1, 2017.
- (7) The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (8) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.
- (9) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or such other pests as may be designated by the Board, but not including equipment used for the application of pesticides when sold separately therefrom.
- (10) Repealed by Session Laws 1995, c. 445, s. 6.
- (11) "Equipment" means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.
- (12) The term "fungus" means any non-chlorophyll-bearing thallophyte (that is any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria,

- except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.
- (13) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.
 - (14) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.
 - (15) The term "inert ingredient" means an ingredient which is not an active ingredient.
 - (16) The term "ingredient statement" means
 - a. A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; and
 - b. In case the pesticide contains arsenic in any form, a statement of the percentages of total and water-soluble arsenic, each calculated as elemental arsenic.
 - (17) The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, wasps, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.
 - (18) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.
 - (19) The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide (or device) or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide (or device).
 - (20) The term "labeling" means all labels and other written, printed, or graphic matter:
 - a. Upon the pesticide (or device) or any of its containers or wrappers;
 - b. Accompanying the pesticide (or device) at any time;
 - c. To which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate, nonmisleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this State or other states authorized by law to conduct research in the field of pesticides.
 - (21) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
 - (22) "Manufacturer" includes any person engaged in the business of importing, producing, preparing, formulating, mixing, or processing pesticides.
 - (22a) "Material Safety Data Sheet" or "MSDS" means a chemical information sheet which would satisfy the requirements of the Hazardous Chemicals Right-to-Know Act, Article 18, Chapter 95 of the General Statutes, or any law enacted in substitution therefor.
 - (23) The term "misbranded" shall apply:

- a. To any pesticide or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - b. To any pesticide:
 - 1. If it is an imitation of or is offered for sale under the name of another pesticide;
 - 2. If its labeling bears any reference to registration under this Article;
 - 3. If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;
 - 4. If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;
 - 5. If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase except that the Board may permit the statement to appear prominently on some other part of the container, if the size or form of the container make it impractical to comply with the requirements of this subparagraph;
 - 6. If any word, statement, or other information required by or under the authority of this Article to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
 - 7. If in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticides or
 - 8. In the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticides, except that physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.
- (24) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.
- (25) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and

inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

- (25a) The phrase "packaged, labeled and released for shipment" means the point in the production and marketing process of a pesticide where the pesticide has been produced, and it is the intent of the producer that such product be introduced into commerce for direct retail sale.
- (26) A "person" is any person, including (but not limited to) an individual, firm, partnership, association, company, joint-stock association, public or private institution, municipality or county or local government unit (as defined in G.S. 143-215.40(b)), state or federal governmental agency, or private or public corporation organized under the laws of this State or the United States or any other state or country.
- (26a) The term "pest" means any insect, rodent, nematode, fungus, weed or any other noxious or undesirable microorganism or macroorganism, except viruses, bacteria, or other microorganisms on or in living persons or other living animals.
- (27) "Pest control consultant" means any person, who, for a fee, offers or supplies technical advice, supervision, or aid, or recommends the use of specific pesticides for the purpose of controlling insects, plant diseases, weeds, and other pests, but does not include any person regulated by the North Carolina Structural Pest Control Act (G.S. Chapter 106, Article 4C).
- (28) The term "pesticide" means:
 - a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and
 - b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (29) "Pesticide applicator" means any person who owns or operates a pesticide application business or who provides, for compensation, a service that includes the application of pesticides upon the lands or properties of another; any public operator; any golf course operator; any seed treater; any person engaged in demonstration or research pest control; and any other person who applies pesticides for compensation and is not exempt from this definition. It does not include:
 - a. Any person who uses or supervises the use of a pesticide (i) only for the purpose of producing an agricultural commodity on property owned or rented by him or his employer, or (ii) only (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person, or (iii) only for the purposes set forth in (i) and (ii) above.
 - b. Any person who applies pesticides for structural pest control, as defined in the North Carolina Structural Pest Control Law (G.S. Chapter 106, Article 4C).
 - c. Any person certified by the Water Treatment Facility Operators Board of Certification under Article 2 of Chapter 90A of the General Statutes or by the Wastewater Treatment Operators Plant Certification Commission under Article 3 of Chapter 90A of the General Statutes who applies pesticides labeled for the treatment of water or wastewater.

- d. Any person who applies antimicrobial pesticides that are not classified for restricted use and are not being used for agricultural, horticultural, or forestry purposes.
 - e. Any person who applies a general use pesticide to the property of another as a volunteer, without compensation.
 - f. Any person who is employed by a licensed pesticide applicator.
- (30) The term "pesticide dealer" means any person who is engaged in the business of distributing, selling, offering for sale, or holding for sale restricted use pesticides for distribution directly to users. The term pesticide dealer does not include:
- a. Persons whose sales of pesticides are limited to pesticides in consumer-sized packages (as defined by the Board) which are labeled and intended for home and garden use only and are not restricted use pesticides, or
 - b. Practicing veterinarians and physicians who prescribe, dispense, or use pesticides in the performance of their professional services.
- (31) Repealed by Session Laws 1973, c. 389, s. 3.
- (32) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.
- (33) "Public operator" means any person in charge of any equipment used by public utilities (as defined by General Statutes Chapter 62), State agencies, municipal corporations, or other governmental agencies applying pesticides.
- (34) The term "registrant" means the person registering any pesticide pursuant to the provisions of this Article.
- (35) The term "restricted use pesticide" or "pesticide classified for restricted use" means any pesticide or use classified as restricted by the Administrator of the United States Environmental Protection Agency or other pesticide or use which the Board has designated as such pursuant to G.S. 143-440.
- (36) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, attracting, or mitigating rodents or any other vertebrate animal which the Board shall declare to be a pest.
- (36a) The phrase "to use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling; provided that the phrase shall not include:
- a. Applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling,
 - b. Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling,
 - c. Employing any method of application not prohibited by the labeling, or
 - d. Mixing pesticides or mixing a pesticide with a fertilizer when such mixture is not prohibited by the labeling.

- (37) The term "weed" means any plant or part thereof which grows where not wanted.
- (38) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this Article, pests; including but not limited to mammals, birds, and aquatic life. (1971, c. 832, s. 1; 1973, c. 389, s. 3; 1975, c. 425, s. 11; 1979, c. 448, ss. 9, 10; 1981, c. 592, ss. 9-11; 1987, c. 559, ss. 2, 18-20; 1991, c. 87, ss. 1, 2; 1995, c. 445, ss. 6, 7; 2017-57, s. 12.1(b).)